

**From:** Tabolsky, Marc  
**To:** [Hunter Barrow](#)  
**Cc:** ["Stern, Karl"](#); [C. Hanslik](#); [Rodgers, Anne](#); [Katerberg, Robert J.](#); [Gersch, David P.](#); [Gregory Huffman](#); [Yetter, Paul](#); [Callahan, Bryce](#); [Mo Taherzadeh](#); ["Tate"](#)  
**Subject:** MM Steel, LP v . Reliance, et al. --- Our conversation this morning  
**Date:** Thursday, February 06, 2014 4:41:00 PM

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Hunter,

During our call this morning regarding Emily Miller's presence in the jury assembly room with the venire in our case, you and Ms. Miller indicated that:

- Ms. Miller went there at your direction;
- She was there for at least 90 minutes;
- She claims that she did not have any communication or interaction with the jurors;
- She did not identify herself to the court personnel until after they approached her and asked her who she was;
- Upon identifying herself to them, she was instructed to leave the jury room;
- She took notes while she was in the jury room;
- She provided you a report of what she observed in the jury room;
- You then told co-defendants' counsel about what she observed in the jury room.

I also asked that you provide us with a copy of the notes from her observations in the presence of the jury venire. You were not willing to produce them to us at this time. I asked you to preserve the notes and any other documents or written communications regarding what your colleague observed or reported with respect to the proceedings in the jury room or regarding the members of the jury venire. You indicated that the notes would be preserved and that you would bring them to Court on Monday morning.

I would ask that you reconsider your position regarding her notes and that you produce a complete copy of the original notes to us, as well as all other emails or documents related to this incident. This is a serious issue that raises significant concerns that defendants have improperly secured an unfair advantage for jury selection in this case. We will take this issue up with the Court on Monday morning, and we are considering what remedies that the Court could impose to undo or at least mitigate the significant harm this conduct has caused and/or sanctions against JSW and the other defendants.

Please let me know at your earliest convenience if you will reconsider your position about producing the notes and all other related documents.

Marc